

## MINUTES

### **WARRICK COUNTY AREA PLAN COMMISSION**

Regular meeting to be held in Commissioners Meeting Room,  
Third Floor, Historic Court House,  
Boonville, IN  
Monday, April 8, 2019, 6:00 PM

**PLEDGE OF ALLEGIANCE:** A moment of silence was held followed by the Pledge of Allegiance.

**MEMBERS PRESENT:** Guy Gentry, President; Bill Byers, Amanda Mosiman, Bob Johnson, Jeff Valiant, and Jeff Willis.

Also present were: Morrie Doll, Attorney; Sherri Rector, Executive Director; Molly Barnhill, Assistant Director; and Amanda Key, Staff.

**MEMBERS ABSENT:** Richard Reid

**MINUTES:** Upon a motion by Jeff Valiant and seconded by Bob Johnson the Minutes from the March 11, 2019 meeting were approved as circulated.

The President read the Rules of Procedure. He stated they will offer a rezoning recommendation to the Board of County Commissioners which will meet here on May 13, 2019 at 4:00 p.m. He said as to primary plats, the APC Board has the final say tonight at this meeting.

Mrs. Rector asks the President if she may say something before we go further.

Mrs. Rector stated that if anyone is here for PC-R-19-03 petition of Ken Favor, the property on Coal Mine Road and Oak Grove Road, he has withdrawn that rezoning so it will not be heard. She said his property will be staying as is, as was recorded "R-1/PUD" and the subdivision plat that was approved.

**PP-19-01 – Ironwood PUD** - Mattingly Homes and Development LLC, by Jeremy Mattingly, Mngr. Property owned by Sharon L. Brown. 27.728 acres located on the N side of Lincoln Ave. 0' NE of the intersection formed by Lincoln Ave. and SR 66. Ohio Twp. *Complete legal on file. (Advertised in the Standard March 28, 2019)*

The President stated that they will also be hearing the rezoning petition PC-R-19-01 to rezone the same 27.728 acres.

Scott Buedel with Cash Waggner and Jeremy Mattingly, developer, stated their names for the record.

The President called for a staff report.

Mrs. Rector stated we do have a recorded Power of Attorney from Mrs. Brown giving John Mattingly, Jeremy Mattingly and Scott Buedel a limited Power of Attorney to represent her on this matter with this piece of property. She said we do have all the return receipts of certified mail to the adjacent property owners except from Gateway Baptist Church, but we do have the white pay receipts showing they were sent correctly. She said the current zoning is agricultural but as a part of this development they have filed to rezone the property to "R-2/PUD" multiple family with a planned unit development. She said the north half of the property is in the AE flood plain which means the elevations have been determined. She said there is also floodway along the northern property line that will need DNR approval to do anything in this area. She said it is a proposed 85 lot residential subdivision. She said the Commissioners approved the street plans today subject to Bobby Howard, the County Engineer reviewing the traffic impact study, the entrance permit, and things from INDOT. She said it just so happens where the entrance is to this subdivision is still under INDOT control. She said otherwise, they were approved. She said the Drainage Board approved the drainage plans today.

Mrs. Rector asked if the Drainage Board relaxed the drainage easement today.

Scott Buedel stated the 6 foot easement requirement was relaxed to 5 foot.

Mrs. Rector asked if the legal drain was reduced and to what measurement.

Bob Johnson stated they did not reduce the legal drain to his knowledge because they were not asked to reduce it.

Mrs. Rector stated it was given to the surveyor's office as a part of their packet.

Bob Johnson stated that Phil Baxter did say he was ok with what was submitted but they never talked about it.

Mrs. Rector then asked if they need to come back in two weeks to the Board to get it relaxed and to get the relaxation on record.

Attorney Doll said technically yes, unless the Board takes it up on its own.

Mrs. Rector stated to come back in two weeks because they're not going to be able to get it recorded that fast, waiting on INDOT. She clarified to Scott Buedel and Jeremy Mattingly to come back to the Drainage Board meeting in two weeks, not the Area Plan meeting.

Scott Buedel stated he understands.

Attorney Doll stated Mr. Mattingly should go to the Drainage board and state that he is asking for formal approval for relaxation to what was submitted.

Scott Buedel stated that it was submitted and there was no objection.

Attorney Doll stated when it was discussed today, it was not voted on.

Bob Johnson asked if the relaxation was to 35 foot.

Scott Buedel confirmed that it is a 35 foot relaxation.

Bob Johnson stated that Phil Baxter did tell him in a private conversation about the relaxation.

Attorney Doll stated nothing is on the record of that.

Mrs. Rector said she will see that it gets put back on the agenda.

Bob Johnson stated that he is sorry about the confusion.

Mrs. Rector stated the meeting is at 2:30 p.m. on April 22<sup>nd</sup>. Mrs. Rector continued that Newburgh Sewer has capacity for the subdivision. She said Indiana American Water has water capacity. She stated the proposed development plat shows eighty buildable lots with five out lots. She said sheet two of the subdivision shows building envelopes. She said some are with two foot and eight foot side yard setbacks. She said where there are two foot setbacks they have placed a four foot access construction and maintenance easement adjacent to it so they are able to go on the other person's property to do any type of maintenance that they may need to do. She stated that this allows access around the rear of the home. She said out lot "A" will be used to store water retention, drainage, and landscaping. She said out lot 'B', 'C', and 'D' will be used for landscaping and signage. She stated that out lot 'E' will be used for landscaping, subdivision signs, off street parking, and cluster mailboxes for mail delivery. She stated that all outlots are to be maintained by the Ironwood Homeowner's Association. She said some of the lots in the back of this development are being set up for duplexes or two family dwellings, for most of the lots are single-family dwellings. She said they are asking for a waiver from the Subdivision Control Ordinance to allow sidewalks to be installed only on the inside of the loop road. She said they have also requested a waiver to reduce the width of two drainage easements from the six foot required width to five feet. She stated they are located along the property line so the total width is ten feet on lots 1, 2, and 3. She said the conditions for the plat approval would be DNR flood way, state entrance permit, zoning approval by the Commissioners, sidewalk waiver, easement waiver, and the relaxation of the legal drain.

The President asked if anyone has anything to add to the staff report.

Scott Buedel replied no, just the overall view of the subdivision, the way it is set up there is patio homes on the east side of the development, condos to the north and the regular single houses on the west side of the property. He said the PUD zoning is being requested both for the condominiums in the back and also the patio homes on the east side where the potential builder for those lots have a specific design in mind for how that side yard can be utilized as more than just green space between the two houses. He stated an actual side patio can be used. He said that is why there is that odd set back between the lots of 2-8.

Mrs. Rector asks the President if he would like her to go ahead with the rezoning petition staff report.

The President replied, yes.

**PC-R-19-01** – Petition of Mattingly Homes and Development LLC, by Jeremy Mattingly, Mngr. Property owned by Sharon L. Brown. 27.728 acres located on the N side of Lincoln Ave. 0' NE of the intersection formed by Lincoln Ave. and SR 66 from "A" Agriculture to "R-2/PUD" Multiple Family Dwelling with a Planned Unit Development. Ohio Twp. *Complete legal on file. (Advertised in the Standard March 28, 2019)*

Mrs. Rector stated the return receipts were mailed together with the primary plat and they certified that both were mailed. She stated we only need the one return receipt from the church. She said, as stated before, there are eighty buildable proposed lots, ranging in size from .129 acres to 1.836 acres. She stated the Comprehensive Plan projects the area to be moderate to high density residential. She said the existing land use is single family dwelling and farm land. She said the property to the east is zoned Agricultural and "C-4" with General Commercial being Gateway Baptist Church. She said the property to the north is zoned Agricultural and is a field. She said across the street to the south is zoned "M-1" Light Industrial and a storage facility across Highway 66 is zoned "C-4" and "R-2B" which is apartments. She said this is filed in conjunction with the primary plat. She said as stated previously, there is AE and floodway on the north end. She said the access will be from Lincoln Avenue. She said the stated use is Ironwood PUD and it is in compliance. She said both applications are in order and the primary plat is in technical conformity to the Subdivision Control Ordinance with the exception of what the conditions would be to get those in.

The President asked if there are any questions from board members.

Amanda Mosiman stated she is looking at the back of the subdivision and looking at drainage. She asked what the reason is for relaxing the easement.

Scott Buedel stated the existing setback requirement from the ditch to the north is 75 feet. He said he is asking it to go down to 35 feet to allow us to construct a large storm basin in that area. He said so all of the condos and the lake itself is not drawn but the whole northern end of the property would be a lake from one end to the other.

Amanda Mosiman confirmed that it would be a very large basin.

Scott Buedel said yes.

The President asked if there are any other questions from the Board members.

Amanda Mosiman asked what the sidewalk waivers requested are.

Scott Buedel said he is asking that the sidewalks be just on the inside of the overall loop road.

The President asked if what he is talking about is marked with a red line on the primary plat.

Scott Buedel confirmed by saying yes that is where the proposed sidewalks are to be.

The President asked if there are any other questions from Board members.

Jeff Willis asked if they would want a sidewalk going out to Lincoln.

Bob Johnson asked how people are going to get to Lincoln.

Jeff Willis asked if there is a sidewalk going through lot D and B to get to Lincoln.

Scott Buedel stated they were not anticipating that. He said they were just asking for the loop road itself, all the way around the subdivision. He said those front two out lots are going to be set up to have landscaping in the island and on each side. He said the landscaping would all be done by the developer and it would look the same as when you came in.

Bob Johnson asked where the kids will be picked up at for school.

The President stated once it gets developed we may get into the loop. He said it depends on how many kids they get in there because I'm not going to have a bunch of kids that close to the road. He said but originally it will be right out there.

Bob Johnson asked Scott Buedel if the sidewalk rolls into the cul-de-sac.

Scott Buedel said no.

Amanda Mosiman said you want it to be a walkable community but you're not going to give a dozen or fifteen of your lots a sidewalk to get out to the outer loop.

Scott Buedel said once it's developed it will have access through the inside of the subdivision, with school busses and so forth. He said they set it up as a full loop road where once you pull in you don't have to go into a cul-de-sac and turn around. He said you can have that main loop all the way around.

The President said that will be most likely the parameter they will take but it would be once it's totally developed because he does not go into subdivisions when they are building. He said you never know what's around the corner.

Jeremy Mattingly said when you first pull in, you can see at the entrance that it's got a little parking area.

The President asked if he was talking about by Outlot E.

Jeremy Mattingly said yes. He said they anticipate that to be an area for the kids to stop at. He said there will be five or six parking spots there and mailboxes are there. He said it's right there at the end in the cul-de-sac on the interior, plus the sidewalk comes around to it. He said so he anticipates that to be a good stop area, especially at the beginning.

The President said yes it could be but he didn't know if something can be put in temporarily or not. He said most likely the kids will be picked up on Lincoln starting out until they get it to where the busses can even make that loop.

Scott Buedel said he agrees and they can do something like that.

Attorney Doll asked if he was talking about lot D or B.

Scott Buedel said D is larger.

The President said he prefers that. He asked if he said lot B as in Boy.

Scott Buedel said no, he said D was a little bit larger. He asked the President if he would prefer lot B.

The President said the school bus door will be on that side and he will be blocking the entrance. He said no one will be able to go in and out the entrance while we are picking up the kids. He said if he used lot D, he would be stopping short and there would still be people going in or coming out perhaps.

Jeremy Mattingly said they are looking for uniformity anyways. He said he wouldn't have a problem putting a sidewalk on both sides.

The President said okay.

Attorney Doll asked if there is a cut through into lot E from the cul-de-sac circle.

Jeremy Mattingly said that is all lot E and it goes all the way around the cul-de-sac.

Scott Buedel said the west part of the cul-de-sac is all part of Outlot E.

Attorney Doll asked if it was possible to have a sidewalk in front of lot 51 through 56. He said it would then empty into lot E. He said that is how the kids will get to the bus stop anyways as opposed to walking out into the circle. He said otherwise, it would save you on some concrete.

Mrs. Rector stated kids do not walk to the school bus stop anymore, their parents drive them to the corner.

Scott Buedel asked if Morrie is talking about in front of lots 51 through 56.

Attorney Doll said he doesn't care. He said it was just his suggestion because it is the smallest area he thinks, that will connect directly to Outlot E. He said it could be a sidewalk for the kids to get to the area where the bus will pick them up.

Scott Buedel said that if Jeremy is willing to do that, then it would be ok with him. He said the whole point of leaving the cul-de-sac off is because it's an isolated, small street, with a few lots on

it. He said if that is going to prevent the approval of the waiver, then he would be willing to make that addition.

Amanda Mosiman said it needs to be walkable and accessible. She said people need to be able to walk around.

Mrs. Rector said to make sure they figure a new certificate of compliance for the street plans so she can get them to Bobby Howard.

The President asked if there are any more questions from the Board members.

Jeff Willis said he knows his question is more of a Drainage Board question and he doesn't know what kind of drain it is or ditch it is but it kind of cuts through their property and goes under Lincoln Avenue from Alcoa's side. He said it looks like they are building houses and roads right on where the water currently goes. He asked how is that going to effect the people on the other side of Lincoln Avenue. He said the only reason he remembers is because when the storage facility came in to rezone years ago, that owner had said their water backs up already and the drains are either across or under Lincoln Avenue and goes over that way. He said it looks like you're building houses right on top of where the water goes.

Amanda Mosiman said there is a flood way for the ditch.

Jeff Willis asked if this is in a flood way or a wet land.

Jeremy Mattingly said it flows from south to north. He said it is dumping on the proposed development.

Amanda Mosiman said she is more worried about the guy's field in the back.

Scott Buedel said they are going to reroute that ditch and make it come down the east property line.

Mrs. Rector said she has looked at the plans and that is where the legal drainage easement is.

Jeff Willis said sometimes Lincoln Avenue will over flow with water right there. He said he just wanted to make sure that it's not going to be worse.

Scott Buedel said no, there is going to be a pretty large ditch there.

Jeremy Mattingly said now it's just kind of a wash out in the middle of the field. He said we are going to take that and construct ditch down Lincoln Avenue to the very east side of the property and run a drainage well all the way down to our basin in the back.

The President asked if there are any more questions from the Board members.

Amanda Mosiman asked how they think this will develop. She asked if they are going to try and go one direction or the other.

Jeremy Mattingly said lot 1 would be the only lot to that direction. He said when you come into the subdivision and you take an immediate right, we are going to go all the way down the right hand side down the eastern side. He said the cul-de-sac will come later. He said they are going to come around the north end to where the condos are. He said so then the west half will be done later and the eastern half would be first.

The President asked if there are any more questions from the Board members. He asked if there are any remonstrators for or against the project. He said he sees none.

Amanda Mosiman stated we missed someone in the back.

The President asked the remonstrator to step to the podium and state their name.

Steve Pawlowski introduced himself at the podium and stated his address as 6977 Lincoln Avenue. He said his concern is the drainage. He said the county came by and did some utility work there and they were there several times during a water break and things. He said the culvert going under the road is about 40 feet from the property line. He said the water is doing whatever it wants to do and it's backing up. He said he is getting everyone's water. He said whenever they start working on this, like when we had that heavy rain, that is a low spot anyways and water is always going down there. He said the water makes a U-turn and when it gets across the street where this development is going to be, it will all be messed up because there is no real good drainage there. He said you're talking about building a retention pond on the north side. He said he is afraid that when this gets started there will be a retention pond on the bottom end of his property.

The President said they are going to divert it to the east and then take it to the back. He asked if Mr. Pawlowski is to the west of them.

Amanda Mosiman said no that they are across Lincoln Avenue.

Steve Pawlowski said no we are in the southwest corner.

Jeff Willis asked Mr. Pawlowski what his address is.

Steve Pawlowski stated it is 6977 Lincoln Avenue

Mrs. Rector asked Mr. Pawlowski if he went to the Drainage Board meeting that was held today.

Steve Pawlowski responded by saying no.

Mrs. Rector said that all of this would have been discussed at 2:30 today. She said the Drainage Board meeting should have been on the notice that you got.

Steve Pawlowski said he didn't know there was two separate meetings.



The President said there are actually three meetings.

Mrs. Rector confirmed that there are three meetings.

Jeff Willis said he thinks the bottom of Mr. Pawlowski property close to the storage area is a drainage easement through there. He said that is why the water backs up there. He said he also wants to make sure that it does keep draining. He said that is why he asked his question previously. He said he use to work at that storage facility there and he remembers.

Steve Pawlowski asked how much of an easement is there.

Mrs. Rector asked Mr. Pawlowski if he had seen all of the retention that is going to hold water on the south corner.

Jeff Willis said that Mr. Pawlowski is on the other side on top of the hill.

Mrs. Rector said Scott will explain to you how the drainage is going then.

The President asked if anyone had any more questions or concerns.

Mr. Pawlowski said that the drainage was his only concern.

Jeff Willis said that was his concern too. He said that is why he asked as well. He said he thinks they have it taken care of.

The President asked for any more remonstrators. He asked Scott Buedel to explain to Mr. Pawlowski about the drainage, even though this is not a drainage meeting.

Scott Buedel said that there is a large culvert that crosses Lincoln Avenue east of the mini storage place and it is probably 40 or 50 feet. He said that is the location of the ditch on the north side of that property. He said it drains to the north across Lincoln Avenue to this property. He said they will take that ditch or whatever is there now and he will reconstruct a ditch. He said the ditch is going to follow Lincoln Avenue and turn and take it to the east property line and all the way down to the north. He said there is going to be a ditch constructed that is going to handle that water and it will be of adequate size for the size of that culvert. He said if there is any blockage on our property now, that will all be taken care of when construction happens and the ditch gets re-routed. He said based upon the phasing of what Jeremy wants to do on the property, they will be starting construction to the right side of the property first.

Jeremy Mattingly said if you were to see the property now, you would see about three gravel driveways in there and it's all grown up grass. He said the ditch along Lincoln Avenue is not much. He said he thinks once they get in there and construct some drainage it is going to be a better situation than it is now. He said the water is trying to go north now. He said once it gets to that field, there is really nowhere to go except to fan out and drain through that field. He said there are a couple washouts it goes through and that grass is high. He said when they get over there the first

thing they are going to do is cut a ditch in and take it all the way down the east side. He said he thinks it will benefit the neighbors to the north of that, if there is a problem with it backing up.

Attorney Doll asked if the ditch would be behind lots 21 through 36.

Scott Buedel said the ditch will be on the south side of lot 40, which is immediately to the right. He said then on the south side of 39, 38, and 37. He said then it wraps around the corner at 36.

Attorney Doll asked if it then will go behind lot 21 through 36.

Scott Buedel said yes, all the way north.

Amanda Mosiman asked if that is just going to be a grass water way.

Jeremy Mattingly said it will be a drainage swale.

Mrs. Rector said the whole back is a drainage easement going along the line.

The President asked if there are any more questions for the Board members.

Scott Buedel said he would like to ask one question about the zoning, since he does have to come back on the 22<sup>nd</sup> of April for the Drainage Board.

Attorney Doll asked if he wanted the rules suspended.

Scott Buedel asked if there is an opportunity to do that or not.

The President said it depends on if the minutes get done in time.

Mrs. Rector stated that the Area Plan office would have the minutes done as soon as possible.

Scott Buedel said part of the reason that he asked is because buying this property is urgent. He said Jeremy is ready to buy the property. He said the seller has some issues and is needing to sell as soon as possible. He said if there is any way to speed up the process, he knows everyone will appreciate it.

The President said it depends on how long tonight's meeting is and how much typing needs to be done.

Scott Buedel said okay.

Mrs. Rector questioned if he is requesting to go on the April 22<sup>nd</sup> agenda.

Scott Buedel said yes.

Jeff Valiant made a motion to approve PC-R-19-01 and to suspend the rules and go forth with the April 22<sup>nd</sup> meeting.

Jeff Willis seconded the motion and motion carried unanimously.

Jeff Willis asked to have Mrs. Rector state the conditions of approval.

Mrs. Rector said with the following conditions: street plan approval from the county engineer, DNR Floodway, state entrance permit, zoning approval from the commissioners, sidewalk waiver, easement waiver, and relaxation of legal drain.

Jeff Willis asked if they need to address the additional sidewalks that was discussed.

Attorney Doll said it would be a partial sidewalk waiver.

Mrs. Rector said yes and they should submit a new plat showing the sidewalks and certificate of compliance that will go with the street acceptance.

Jeff Valiant seconded the motion.

The President stated the motion is on the floor. He asked if there is any other discussion. The motion carried unanimously. He stated to return April 22<sup>nd</sup>, 2019 at 4:00pm. He also stated to be at the Drainage Board meeting at 2:30 that day.

Attorney Doll confirmed to come back at 4:00 on April 22<sup>nd</sup> for the relaxation.

**PP-19-02 – Peachwood of Warrick Place VII** - Bernhardt Enterprises, Inc., by Kenneth R. Bernhardt, Secretary. Owner: Same. 14.63 Acres located on the N and S of Peachwood Dr. 0' NW and SW of the intersection formed by Peachwood Dr. and Casey Rd. being Lot 6 of Peachwood of Warrick Place VI as recorded in Document 2002R-005708 and Glendale PRUD as recorded in PF 1 Card 334. Ohio Twp. (*Advertised in the Standard March 28, 2019*)

**PC-R-19-04** – Petition of Bernhardt Enterprises, Inc., by Kenneth R. Bernhardt, Secretary. Owner: Same. 7.26 Acres located on the N and S of Peachwood Dr. 0' NW and SW of the intersection formed by Peachwood Dr. and Casey Rd. being Glendale PRUD as recorded in PF 1 Card 334 from “R-2B” Multiple Family Zoning District to “M-2” General Industrial. Ohio Twp. (*Advertised in the Standard March 28, 2019*)

The President asked Mrs. Rector for a staff report.

Mrs. Rector said they have all the return receipts from the certified mailings except for one from Daniel Favello, for which we do have the white pay receipt showing it was mailed correctly. She said there is no minimum lot size required for an “M-2”. She stated the comprehensive plan shows the area to be commercial. She said the existing land use is vacant. She said the property land use adjacent land to the west and north is zoned “M-1”. She said across Casey Rd. to the east is zoned agriculture with some fields and wooded area. She said across Highway 66 to the south is “R-1A”

One Family Dwelling, being Meadowbrook Subdivision. She said this was filed in conjunction with Primary Plat 19-02, which is also on the agenda. She said they are requesting this to have a consistent zoning in the proposed subdivisions adjacent to it. She said the traffic will come off of Peachwood Drive and Casey Road. She said the stated use is commercial which is in compliance. She said on the plat is zoned "M-2" General Industrial. She said part of this property is currently zoned "R-2B" Multiple Family Apartments District, that was filed to rezone to "M-2". She stated it is also on the agenda tonight. She said the "R-2B" was done years ago and never developed. She said then the industrial came in after that. She said they are just bringing this in with the rest on the same side of the road. She said there is some AE flood plain, which means elevations have been determined in that area. She said we require a certified plot plan certifying the flood protection grade at two feet above. She said the number of lots is six. She said the commissioner's approve their request for no improvements to Peachwood Drive or Casey Road. She said the Drainage Board approved no drainage plans. She stated that she is still waiting for a letter on the sewage capacity from Newburgh. She said she knows they are working on it because she received an email from them stating so. She said this will be subject to the Newburgh capacity letter. She said there is a letter from Indiana American stating the water mains are available. She said it a proposed 6 lot commercial development with the lots ranging in size from 1.02 to 4.92 acres. She said the plat is in technical conformity to the subdivision ordinance. She said they did submit a sidewalk waiver but it is not required in an industrial commercial zoning.

The President asked if there is anything to add to the staff report.

Scott Buedel said south side of Peachwood Drive in Glendale PUD is where they are going to clean up the area. He said he doesn't know how Peachwood got platted the way that it did with extending a road right in the middle of that development and not being re-platted in the past. He said part of this is just a clean-up and create some additional lots that are a little bit smaller in size and more marketable. He said he requested a sewer capacity letter at the beginning of March and they requested more information. He said he sent it to them in March. He said he spoke to Molly on Friday and she still hadn't received a letter from Newburgh Sewer. He said he has been in contact with Newburgh Sewer repeatedly in the last couple days, trying to get this ironed out. He said they are looking at the capacity of that line itself. He said as far as having actual capacity, it's in their hands right now. He said they are hoping that everything is going to come back fine but, as of this afternoon, we are still waiting. He said they are hoping they can just move forward and have it conditioned upon having capacity.

The President asked if there are any questions from the Board members.

Amanda Mosiman asked to be reminded what can go in a "M-2" zoning.

Mrs. Rector stated everything except a house or anything "M-3".

Scott Buedel said the adjacent lot in Peachwood, that is being re-platted, is mostly west of the power lines and in that bigger pie-shaped lot. He said that is currently zoned "M-2" and the properties on the north and south of Peachwood Drive were a part of that planned residential unit development from a while back. He said so we are just trying to rezone those to be in the same zone as the other surrounding properties to match the "M-2" in Peachwood.

The President asked if the Board members have any questions.

The President asked if there were any remonstrators for or against the project.

Greg Taylor said he was at the drainage meeting where the engineer was also in attendance. He stated that the engineer said it wouldn't affect his drainage. He said his biggest concern is what they are going to build there if it becomes commercial. He said his house is most affected. He said he did not get a notice for the meetings.

Mrs. Rector said if you are adjacent, you should have received a notice.

Greg Tatum stated he did not get a notice. He said his neighbor showed him the notice they received.

The President asked what Greg Tatum's address was.

Greg Tatum said his address is 4211 Meadowbrook Lane. He said he has lived there two and a half years.

Mrs. Rector asked for Mr. Tatum to please state his name and address for the record.

Greg Tatum stated his name and said his address is 4211 Meadowbrook Lane. He asked to show where his property is on the GIS map. He said his house is at the end of the cul-de-sac.

The President said Mr. Tatum's house is located across Highway 66.

Mrs. Rector said notices do not have to be sent across a limited access highway according to the ordinance.

Greg Tatum said he has a case number from INDOT to have that wall extended on down. He said when he built that wall, his house was not there. He said he would like the APC Board to help him get the wall extended down.

Bob Johnson said Mr. Tatum is talking about a noise barrier. He told Mr. Tatum that the APC Board cannot help him with that issue. He said Mr. Tatum needs to call Ron Bacon.

Greg Tatum said he hates to say it, but the APC Board has more pull than him. He said one person is not going to get anything done.

Bob Johnson said Ron will listen to Mr. Tatum's issues and help him.

Greg Tatum stated he understands. He said his biggest concern is, if it's going to be zoned commercial, will there be reputable businesses come in there. He said he doesn't want a chicken farm.

The President asked Mrs. Rector if something like that could be put there.

Mrs. Rector responded by saying no. She said something like that requires a Special Use Permit and is an entirely different hearing also.

Greg Tatum said yes but he has a buddy that lives out there and it's cost him \$40,000 for nothing.

(Distant chatter from the audience)

Mrs. Rector addressed the chatter by asking whoever is wanting to speak, to please come to the podium and state your name for the record.

Madea Tatum introduced herself and stated she is Greg Tatum's wife. She stated she lives at 4211 Meadowbrook Lane. She said they were there on the drainage issue because all the water is drained down to the main ditch behind their house. She said they are already getting issues with the water so she felt like she needed to come today. She said they didn't even get a letter about any of this. She said it's their property that has ditches running all the way around it. She said all the water comes to them. She said she thought they needed to attend, thank God a neighbor told her about it. She said with a development across the highway, they want to make sure that none of that water comes back to us. She said they will have problems then.

The President said that Scott Buedel will address where the water is going here in a minute. He asked if there are any other concerns or issues.

Madea Tatum said no, other than what they are going to build on the other side of the highway because they don't want the value of their property going down. She stated they have only lived there for two years and the house is only two years old.

Amanda Mosiman stated that some of the things that are allowed in "M-2" are light manufacturing and assembly work. She said light manufacturing is already on Peachwood Dr.

Mrs. Rector said that the Tatum's have industrial right across the street from them already.

Mr. Tatum stated that he did not have anything across the street from his residence.

Mrs. Tatum stated there was nothing across from them.

The President stated it is zoned that way, "M-2".

Madea Tatum stated it was commercial and residential. She said she doesn't know when this was changed. She said they have never been informed of any of the changes, so she wouldn't know. She stated again, they never got a letter and they knew nothing.

The President said the "M-2" has been there for a long time.

Mrs. Rector stated it has been there longer than the two years the Tatum's have lived there.

Mrs. Rector pointed to map to show the Tatum's the surrounding zoning. She explained to them the area, where "M-2" is zoned, is already surrounding them.

Madea Tatum asked what is zoned behind their property.

The President stated it was "R-3" on the same side of Highway 66.

Mrs. Rector said "R-3" is for a resort.

Inaudible comments.

The President asked if there were any more questions for the Board members. He then asked Scott Buedel to step to the podium and briefly tell them how the water is flowing, again.

Scott Buedel stated the main drainage for this area is on the north side and it crosses through the south side of lot six. He said everything is getting to the north side of the highway and following through that ditch. He said it will then cross Casey Rd. and down Pecka Ditch. He said everything is getting into the Pecka ditch. He stated it's basically coming across the highway onto that property and then east of Casey and into Pecka.

The President asked if he happens to know where the drain goes under Highway 66.

Scott Buedel stated he did not have that information with him.

Madea Tatum yells from the audience that it is her property that the drain goes under.

Scott Buedel stated the existing zone in Peachwood and basically the corner of lot 6 and the corner of lot 5 in Peachwood of Warrick Place 5, if you look you can almost see on the plat the corner of their lot at the end of the cul-de-sac across the road. He said if you drew a line perpendicular across, it would probably be about the same point. He said you can kind of see where their property takes off and goes northwest but then if you look across the highway from their property itself, it has already been zoned "M-2" and has been for years.

Amanda Mosiman asked if he is just trying to clean up those lots and if he has anybody currently interested.

Scott Buedel said correct. He said the one on the south side of Peachwood especially really had no interest in doing much with that at this point in time but because it was part of that Glendale PUD, if we tried to go in and re-plat that and do a partial fix it was still going to be a mess so we are trying to clean up Glendale and remove it from the books.

Mrs. Rector said yes because that was platted to be a great big apartment complex.

The President asked if that was before Peachwood came through.

Amanda Mosiman said apparently, because that he is saying the Peachwood Plat really messed it up.

Mrs. Rector agreed.

Scott Buedel said you can see some shaded areas in the middle of those lots. He said they were public utility easements that were granted throughout that plat and he is in the process of vacating those too, so it will be like a larger open area that could be used for development.

The President asked if there are any more questions for the Board members.

Jeff Valiant mad a motion to give PC-R-19-04 a positive recommendation to the County Commissioners.

Jeff Willis seconded the motion.

The President called for any other discussion.

Amanda Mosiman asked if they should make the rezoning contingent upon sewer capacity because they don't have that yet.

Attorney Doll said plat.

Amanda Mosiman said plat, alright.

The President asked if there were any other questions.

The motion carried unanimously.

The President said they then would entertain a motion on the plat.

Jeff Valiant motioned to approve PP-19-02 with condition of sewer capacity letter.

Bob Johnson seconded the motion.

The President asked if there were any other questions.

All in favor, no opposed, motion carries unanimously.

The President said the zoning will go to the County Commissioners meeting on May 13<sup>th</sup>.

Mrs. Rector said if you really want the other one to go, then let's leave this one out.

Inaudible comments.



**PC-R-19-02** Petition of Roslin Road Development Corporation by Lisa Freidman, VP. Owner: Same. Property located on the N side of Roslin Rd. approximately 1600' NW of the intersection of Roslin Rd and Oak Grove Rd. being lot 1 of Roslin Industrial Park as recorded in document No. 1999R-007098, from "M-2" General Industrial to "C-4" General Commercial. Boon Twp. *(Advertised in the Standard March 28, 2019)*

The President asked whoever speaks to please step up to the podium and state their name for the record.

Jim Morley Jr. approached the podium. He stated he was their Project Engineer.

The President asked for a staff report.

Mrs. Rector said they do have all the return pay receipts. She said there is no minimum for "C-4" which is General Commercial Zoning. She said the area is in the hundred year flood plain. She said the existing property is vacant. She said the property to the north, southeast, and northwest is zoned "M-2" and is Roslin Industrial Park. She stated across Roslin Road to the south is some "M-2" which is currently vacant, and "R-1/PUD" being Eastwick at Berkshire Subdivision. She said there are Agricultural zoned properties to the north and east that are being used for farming. She stated most of the property has been removed from the flood plain with a letter of map revision. She said there is a small portion that appears to still be along the north property line. She said the access is at Roslin Road. She said the stated use is commercial and it is in compliance. She said she believes that Mrs. Friedman wants this zoning because she is looking at maybe living quarters going in for a caretaker of her property next to it. She said living quarters are not allowed in an "M-2" zoning that is why she is wanting to reduce it down to "C-4".

The President asked if there was anything to add to the staff report. He asked if there were any questions from the Board members.

Amanda Mosiman asked to be reminded what businesses were in there, in the current "M-2" Lots 3 through 5.

Jim Jr. said if you look along here, Brentwood Meadows is at the far end and then there is a couple of warehouses.

Amanda Mosiman said so there is a couple of warehouses in the treatment center.

Jim Jr. said yes.

Mrs. Rector said yes.

Jim Jr. said then the big large piece of ground between Roslin Road and Oak Grove Road and that area is where her farm is or where she is going to have a farm. He said her intent is to put up a barn there with living quarters in it. He said they will keep the tractors and stuff over there but have somebody on site so to speak. He said they can't do that in "M-2" zoning, so we want to reduce it to a "C-4".

The President asked if there were any more questions for the Board members.

Jim Jr. said he is not sure the appropriate time to ask this but he will ask now. He said if you all would choose to re-zone this property, the contractor that is going to be putting this up is Graber Post and they have a hole in their schedule, they are booked up to the summer but they have an opening at the end of April or the first week of May. He asked if she could have the re-zoning heard by the County Commissioners on April 22<sup>nd</sup>.

Mrs. Rector said she can't make any promises. She said the Area Plan office is very busy and there are three new people in the office and they are doing their best to get the minutes done as fast as they can.

Jim Jr said he will take that.

The President asked if there are any more questions from the board members. He asked if there are any remonstrators for or against the project.

Bob Johnson made a motion to give PC-R-19-02 a positive recommendation.

The President said the motion is on the floor.

Amanda Mosiman said to allow the rule to say, "if possible".

The President said yes, if time permits, it will be allowed.

Bob Johnson said yes, if time permits.

Inaudible comments.

Jeff Valiant seconded the motion.

The President said no overtime, he doesn't authorize that. He said if you get it, you get it. He said if you don't, you don't. He said otherwise, they are going to have to start refusing all of them. He said motion to second is on the floor, any other discussion.

The motion to give the Commissioners a positive recommendation for PC-R-19-02 was unanimously carried.

The President said April 22<sup>nd</sup>, maybe. He asked Mrs. Rector if she would let them know. He asked her how much notice she has to give.

Mrs. Rector said her office is supposed to certify within 10 days of their meeting to them. She said they have to give what is on the agenda a week before the meeting to Susie. She said that gives them one week to know if she can get them done.

Jim Jr. said we will take that either way.

### **OTHER BUSINESS:**

Discussion: Amendment to Warrick County Comprehensive Plan.

Jordan Aigner said hopefully Sherri sent you guys a letter after that meeting we kind of had, that joint session for some additional potential development here in Warrick County. He said it is simply requesting an amendment to the Comprehensive Development Plan. He said he is here to ask if they have any further questions because it kind of lies with this Board. He said if anyone has any questions or if you would be willing to entertain a vote that would be great but if not, and it needs to be tabled, he understands.

The President asked what the time frame on that is.

Jordan Aigner said well, we really don't.

Mrs. Rector said he can't rush it any faster than the state statutes allow. She said what you will have to do tonight, if you want this to be advertised for a public hearing; which it has to be, you would have to direct me to do so. She said then we will have to put an ad in the paper and it could not go any sooner than next month's meeting. She said we will have to prepare a resolution because it is not an amendment ordinance.

Attorney Doll said which will be basically the language on the back of the handout.

Mrs. Rector said basically it is just adding it. She said then a public hearing will be held on it and then a recommendation will be made to the Commissioners.

The President asked if it would be done at a regular meeting.

Mrs. Rector stated yes.

Attorney Doll said we are not deleting any part of the Comprehensive Plan. He said it is just adding it to the Comprehensive Plan. He said it then goes to the Commissioners for adoption or rejection.

Mrs. Rector said it will be goal four because there is already a goal one, two, and three. She said this will just be adding goal four for what it states.

Attorney Doll said the motion would be to direct Sherri to advertise it for a public hearing at the next regular meeting, if you wish.

The President asked if there were any questions.

Amanda Mosiman asked if they removed Warrick from the workforce county.

Jordan Aigner said he doesn't know because they are pushing really hard to keep a lot of things in there.

Amanda Mosiman said she was just curious.

Jordan Aigner said right now he doesn't know.

Amanda Mosiman said she can get on the website and check herself.

The President asked what the Board wishes to do.

Amanda Mosiman made a motion to direct Sherri to advertise the Comprehensive Plan change for our next regular meeting.

The President said the motion is on the floor. He asked for any other discussion.

Jeff Valiant seconded the motion.

The President asked for any other discussion.

Jeff Willis asked if we advertise it as one thing but decide at the next meeting that we would need to change the wording a little bit, could he do that at that meeting.

Mrs. Rector said yes because she isn't going to advertise any specific language.

Amanda Mosiman said they are just advertising an amendment to the Comprehensive Plan.

Jordan Aigner said that is actually a really good point that Jeff is making because we are trying to stay ahead of the State. He said as soon as they lay it out there, we may need to say, "Oh gosh, we should have said this phrase". He said so you understand the concept. He said he is sure they can have a hearing and talk about that concept. He stated you might have some contingency of whatever decision you make about the final language. He said as long as Morrie is okay with that.

The President asked if they still have a motion and a second.

Jeff Valiant said yes.

The President asked if there is any other discussion.

The motion carried with six in favor and one abstention by Bob Johnson.

Discussion: Solar panel farm zoning classification. Continued from March 11, 2019.

Mrs. Rector said they have solar panels on here but they haven't done anything with it yet so she would like a motion to continue it.

Amanda Mosiman motioned to table the solar panel until June.

Mrs. Rector said yes, June.

Jeff Valiant seconded the motion.

The President said the second motion is on the floor. He asked for any other discussion.

Motion carries unanimously.

The President called for the next item on the agenda.

Discussion: Urban Chickens – Continued from March 11, 2019.

Mrs. Rector said the agenda says Urban Chickens but after she got to looking at other people's ordinances and stuff they all call them "Backyard Chickens". She said they get calls continuously wanting to know if they can have their own chickens. She said like Amanda said before, it is a food source and the town of Newburgh passed an ordinance that allows them. She said Evansville has it too. She said so basically, she went off the ones that she has seen. She said most of them say the same thing except inside the towns like that, they make people come in to get permits. She said not for structure but permits to have the animals. She said, we don't want to do that but what I did put in there is that they would be required to come in and get an improvement location permit for the chicken coop so we can ensure that they are staying 50 feet away from the houses.

Attorney Doll said this would not trump development conditions in subdivisions. He said if a subdivision prohibits the keeping of animals, except domesticated pets, this would not trump that.

Amanda Mosiman said not to get her started on that because these are domesticated pets.

Attorney Doll said we don't normally eat our domesticated pets.

Amanda Mosiman said she knows but she is just saying technically, under Indiana State Law they are considered domesticated.

Attorney Doll said so if you have a subdivision with a restrictive covenant that precludes the keeping of chickens, Gallus Gallus Domesticus, then this doesn't trump that. He said only in the absence of a restrictive covenant would this come into play. He said so subdivisions that prohibit it will still be prohibited.

Mrs. Rector said if you want four chickens, three chickens, or ten chickens that's fine. She said she chose six chickens because that is what Newburgh has.

Bill Byers said he has a question. He said what about the ducks.

Attorney Doll said no.

Mrs. Rector said that is why Amanda Mosiman had her put the correct name for chicken, Gallus Gallus Domesticus, in the ordinance.

Amanda Mosiman said yes, that is why the specific species definition is in there. She said so no, they are not going to go down that slippery slope.

Bill Bivens said Chinese eat ducks.

Mrs. Rector said oh no.

Amanda Mosiman said she eats ducks, so what are you saying?

Attorney Doll asked if anyone knows the leading duck producing state in the United States is.

Amanda Mosiman said us.

Attorney Doll said Indiana. He said more commercial ducks are produced in Indiana than any other state.

Mrs. Rector said to remember they are just recommending this to the Commissioners. She said they are the ones that have to decide.

Amanda Mosiman said duck eggs are good and fabulous for baking.

Mrs. Rector said we honestly get phone calls all the time about people wanting chickens. She said she has a guy waiting on her, whose two sons want to raise some chickens. She said so it is a popular thing now.

Amanda Mosiman said it is very popular and it is growing.

Attorney Doll said this would be referred to the County Commissioners for their consideration. He said so the motion would be to recommend it to the County Commissioners as an amendment to the zoning ordinance.

Bob Johnson said the only question he has, if he may, is the coop or structure that has no size limit to it.

Mrs. Rector said you can put one in there.

Attorney Doll said you can buy them pre-fabricated at all the farm stores.

Molly Barnhill said and on wheels and they move. She said she just thought of that.

Amanda Mosiman said they are called "Chicken Tractors".

Mrs. Rector said well you can move storage buildings too that are on slats.

Bill Byers said he can't imagine how they would enforce this.

Bob Johnson said yeah.

Jeff Willis said well when the neighbor calls to complain we can say well they are fifty feet away, no they are forty nine feet away, and okay now we can't enforce it.

Bob Johnson said they do have to be fifty feet away right.

Mrs. Rector said yes from the other houses and that is going to limit a whole lot of people with little lots in these little subdivisions.

Jeff Willis said they will go out there with a tape measurer, measuring back into a little corner.

Jeff Valiant asked who is going to police the number of chickens.

Mrs. Rector said you all are.

Jeff Willis said the neighbors, when they complain.

Mrs. Rector said we will add that in on the Commissioner's nuisance ordinance.

Attorney Doll asked if they have a county animal control.

Amanda Mosiman said yes we do.

Bob Johnson said and they are busy as all get out.

Amanda Mosiman says yes they are.

Mrs. Rector said but their ordinance allows for chickens. She said so we are conflicting with their ordinance or whatever they have. She said because we will get calls with people saying that animal control said they could have the chickens. She said so then we have to tell them we don't allow them.

Jeff Willis asked if animal control had a number of chickens that they allow.

Amanda Mosiman said no, they don't go that specific.

Mrs. Rector said she doesn't think so.

Jeff Willis asked if there is a good number of chickens to have.

Amanda Mosiman said she thinks this is very reasonable. She said plus the amount of size that they need, this is about what you can fit in those pre-fabricated coops.

Bob Johnson said you know six is probably the limit.

Amanda Mosiman said yeah, most people want two or three that's it. She said but it is extremely popular.

Jeff Willis said some people say they have too many eggs and they don't know what to do with them.

Mrs. Rector said we can make it three, if you are more comfortable with that.

Bob Johnson said no, he is just saying.

Attorney Doll said whatever you want to recommend to the Commissioners for their consideration.

Jeff Willis said he just wanted to make sure six was a healthy number and not just some arbitrary number we picked out of the air.

Amanda Mosiman said six chickens could produce five or six eggs a day.

Attorney Doll said that is a lot of eggs.

Bob Johnson said that is a lot of eggs.

Amanda Mosiman said not at her house.

Jeff Willis said you eat more eggs if you have more chickens.

The President asked Amanda Mosiman if she was making a motion.

Amanda Mosiman said yes she makes a motion that they recommend this to the Commissioners for consideration.

The President said there is a motion on the floor.

Jeff Willis seconded the motion.

The President said there is a motion and a second on the floor. He asked if there is any other discussion.

The motion was carried unanimously.

Amanda Mosiman asked if the Board suggest she should be at the Commissioner's meeting to answer questions if they come up.

Bob Johnson said we always welcome you.



Amanda Mosiman said she would test that.

Mrs. Rector said it will be the May meeting.

**ATTORNEY BUSINESS:**

The President asked if there is any attorney business.

Attorney Doll said no.

**EXECUTIVE DIRECTOR BUSINESS:**

The President asked if there is any Executive Director business.

Mrs. Rector replied no.

The President said he would entertain one more motion.

Jeff Valiant motion to adjourn the meeting. The motion was seconded by Bob Johnson and unanimously carried. The meeting adjourned at 7:09 p.m.

ATTEST:

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Sherri Rector, Executive Director

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Guy Gentry, President